

exercised only upon the concurrent certification by the General Counsel or, where confirmed in writing by the General Counsel, by his or her designee, or, in cases where a regional director or deputy regional director issues a notice, directive, or order, by the appropriate regional counsel, that the action taken is not inconsistent with section 38 of the FDI Act (12 U.S.C. 1831o) and part 325 of this chapter.

§ 303.272 Investigations under section 10(c) of the FDI Act (12 U.S.C. 1820(c)).

(a) *Authority of division directors.* Authority is delegated to the Director and Deputy Director (DOS), to the Director and Deputy Director (DCA), to the Director and Deputy Director of the Division of Resolutions and Receiverships, and where confirmed in writing by the appropriate Director, to an associate director, and to the appropriate regional director and deputy regional director, to issue an order of investigation pursuant to section 10(c) of the FDI Act (12 U.S.C. 1820(c)) and subpart K of part 308 of this chapter.

(b) *Authority of General Counsel.* Authority is delegated to the General Counsel, and where confirmed in writing by the General Counsel, to his or her designee, to issue an order of investigation pursuant to sections 8 through 13 of the FDI Act (12 U.S.C. 1818–1823), as appropriate, and subpart K of part 308 of this chapter.

(c) *Concurrence in certain situations.* In issuing an order of investigation that pertains to an open insured depository institution or an institution making application to become an insured depository institution, or a post-conservatorship or post-receivership order of investigation, the authority delegated under this section shall be exercised only upon the concurrent execution of the order of investigation by the Director or Deputy Director (DOS), or the Director or Deputy Director (DCA), or the Director or Deputy Director of the Division of Resolutions and Receiverships, their respective associate directors, and the General Counsel or his or her designee. In the case of a joint order of investigation, such authority shall be exercised only upon the concurrent execution of the

order of investigation by both Directors or Deputy Directors, or their associate directors, and upon the certification and execution of the order by the General Counsel or his or her designee.

§ 303.273 Unilateral settlement offers.

(a) *General.* Authority is delegated to the Director and Deputy Director (DOS), to the Director and Deputy Director (DCA), and where confirmed in writing by the appropriate Director, to an associate director, to accept, deny or enter into negotiations for or regarding settlement and settlement offers with insured depository institutions, or with an institution-affiliated party, pertaining to or arising in connection with a proceeding under part 308 of this chapter. In cases where a proceeding under part 308 of this chapter was issued jointly by DOS and DCA, both Directors or Deputy Directors, or their associate directors, must agree to accept, deny or enter into negotiations regarding settlement and settlement offers with insured depository institutions or with an institution-affiliated party.

(b) *Legal concurrence.* The authority delegated under this section shall be exercised only upon concurrent certification by the General Counsel or, where confirmed in writing by the General Counsel, by his or her designee, that the action taken is not inconsistent with the FDI Act.

§ 303.274 Acceptance of written agreements.

(a) *Written agreements under section 8(a) of the FDI Act.* Authority is delegated to the Director and Deputy Director (DOS), and where confirmed in writing by the Director, to an associate director, to accept or enter into any written agreements with insured depository institutions, or any institution-affiliated party pertaining to any matter which may be addressed by the FDIC pursuant to section 8(a) of the FDI Act (12 U.S.C. 1818(a)).

(b) *Written agreements in lieu of cease-and-desist orders.* Authority is delegated to the Director and Deputy Director (DOS) and to the Director and Deputy Director (DCA), and where confirmed in writing by the appropriate Director,

to an associate director, to accept or enter into any written agreements with insured depository institutions, or any institution-affiliated party pertaining to any safety and soundness or consumer compliance matter which may be addressed by the FDIC pursuant to section 8(b) of the FDI Act (12 U.S.C. 1818(b)) or any other provision of the FDI Act which addresses safety and soundness or consumer compliance matters. In cases which would address both safety and soundness and consumer compliance matters, the Directors, or their designees, may accept or enter into joint written agreements with insured depository institutions or any institution-affiliated party.

(c) *Written agreements as condition attendant to FDIC filings contained in this part.* Authority is delegated to the Director and Deputy Director (DOS), and to the Director and Deputy Director (DCA), as appropriate, and, where confirmed in writing by the appropriate Director, to an associate director, and to the appropriate regional director and deputy regional director, to accept or enter into any written agreements with any insured depository institution, any institution-affiliated party or any other petitioner which contains conditions precedent to the FDIC's non-objection to a filing pursuant to this part. A written agreement under this paragraph (c) shall not affect an institution's rating for prompt corrective action purposes, unless the written agreement expressly provides to the contrary.

(d) *Legal concurrence.* The authority delegated under this section shall be exercised only upon concurrent certification by the General Counsel or, where confirmed in writing by the General Counsel, by his or her designee, that the action taken is not inconsistent with the FDI Act.

§ 303.275 Modifications and terminations of enforcement actions and orders.

(a) *Termination of section 8(a) (12 U.S.C. 1818(a)) orders and agreements.* Authority is delegated to the Director and Deputy Director (DOS) and, where confirmed in writing by the Director, to an associate director, and to the appropriate regional director and deputy

regional director, to terminate outstanding section 8(a) orders and agreements and to terminate actions and agreements which are pending pursuant to section 8(a) of the FDI Act when the depository institution is closed by a federal or state authority or merges into another institution.

(b) *Termination of section 8(a) (12 U.S.C. 1818(a)) notification to primary regulator issued by Board of Directors.* Authority is delegated to the Director and Deputy Director (DOS), and where confirmed in writing by the Director, to an associate director, and to the appropriate regional director and deputy regional director, to terminate notifications to primary regulator issued by the Board of Directors pursuant to section 8(a) of the FDI Act where the respondent depository institution is in material compliance with such notification or for good cause shown.

(c) *Termination of section 8(a) (12 U.S.C. 1818(a)) notice of intent to terminate insured status.* In cases where the Board of Directors has issued a notice of intent to terminate insured status pursuant to section 8(a) of the FDI Act, authority is delegated to the Director and Deputy Director (DOS) and, where confirmed in writing by the Director, to an associate director, and to the appropriate regional director and deputy regional director, to terminate the actions pending pursuant to such notice of intent to terminate insured status where the respondent depository institution is in material compliance with the applicable notification to primary regulator or for good cause shown.

(d) *Sections 8(b) and 8(c) (12 U.S.C. 1818(b) and (c)) actions and orders.* (1) Authority is delegated to the Director and Deputy Director (DOS) and to the Director and Deputy Director (DCA), as appropriate and, where confirmed in writing by the appropriate Director, to an associate director, and to the appropriate regional director and deputy regional director, to terminate outstanding section 8(b) and section 8(c) orders and agreements and to terminate actions and agreements which are pending pursuant to sections 8(b) and 8(c) of the FDI Act when the depository institution is closed by a federal or state authority or merges into another institution. In cases where a joint order was